

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
DOCKET NO. 3:15-cr-00242-MOC

THIS MATTER is before the court on a “claim” (#11) filed by James Martinez in opposition to the Consent Order and Judgment of Forfeiture (#8). In his claim, Mr. Martinez claims he owns the Para Ordnance P14-45 .45 caliber pistol with magazine, Serial number P128172 and ammunition, and that it was being stored in defendant’s safe when it was seized. He attached to his claim a 2014 receipt for the purchase of the firearm. In response, the government filed with the court a 2015 “Firearm Bill of Sale” receipt indicating he sold the firearm to defendant. Govt. Ex. A (#23). That Bill of Sale contains what appears to be claimant’s very distinctive signature.

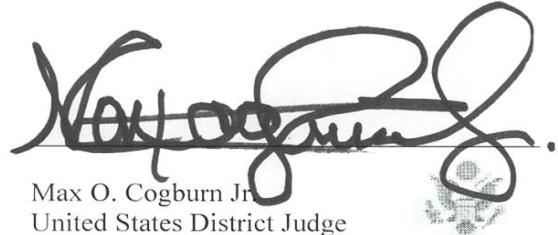
Claimant has not filed a Reply, requested a hearing, or otherwise disputed the authenticity of the Firearm Bill of Sale. Thus, the court has conducted the ancillary proceeding required under Rule 32.2(c) on the pleadings now before it. After considering the claim, the court determines that Mr. Martinez does not have a cognizable ownership interest to assert in such firearm. In accordance with Rule 32.2(c)(2), Federal Rules of Criminal Procedure, the court reaffirms Judge Keesler's initial determination that such firearm should be forfeited, determines that at the time the government sought forfeiture of the firearm it was owned by defendant, and

that the claimant, while once an owner of the firearm, no longer has any interest in the weapon as he transferred such ownership interest to defendant as evinced by the undisputed Firearm Bill of Sale which contains what appears to be Mr. Martinez's distinctive signature. Govt. Ex. A (#23). As such, that firearm has been properly seized and is forfeit to the government.

ORDER

IT IS, THEREFORE, ORDERED that Mr. Martinez's claim (#11) is denied, the Consent Order and Judgment of Forfeiture (#8) is **REAFFIRMED**, and this Final Order of Forfeiture is **ENTERED** providing that the property described in such preliminary order (#8) is **FORFEIT** to the government. This Order is, in accordance with Rule 32.2(b)(4)(B) incorporated by reference into the Judgment, *nunc pro tunc*, as provided under Rule 36.

Signed: September 22, 2016



A handwritten signature in black ink, appearing to read "Max O. Cogburn Jr.", is written over a horizontal line. To the right of the signature is a small, circular, textured seal or stamp.

Max O. Cogburn Jr.
United States District Judge